



VOSH PROGRAM DIRECTIVE: 06-014

ISSUED: August 15, 1995

SUBJECT: Standard Interpretation of §§1910.132(b) and 1926.95(b)
concerning Employer Obligation to Pay for Personal Protective
Equipment

A. Purpose.

This directive transmits to field personnel the interpretation of the Personal Protective Equipment standard, §§1910.130 through 1910.138 and §1926.95, and sets guidelines to apply when dealing with issues concerning employer obligation to pay for personal protective equipment.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

B. Scope.

This directive applies to all VOSH personnel.

C. Reference.

OSHA memorandum by James W. Stanley, Deputy Assistant Secretary, dated October 18, 1994.

D. Cancellation.

Not Applicable.

E. Action.

The Deputy Commissioner, directors and supervisors shall assure that field personnel and employers understand and comply with this interpretation of the obligations of employers and employees to pay for certain personal protective equipment under §§1910.130 through 1910.138.

F. Effective Date.

August 15, 1995

G. Expiration Date.

Not Applicable.

H. Background.

On April 6, 1994, federal OSHA published (59 Fed. Reg. 16334) its revised standard for Personal Protective Equipment (PPE) to improve the means of hazard prevention. The Safety and Health Codes Board adopted this revised standard on April 25, 1994, with an effective date of July 5, 1994. The Board on April 25, 1994 adopted federal OSHA's corrections interpreting the applicability of general requirements contained in §1910.132 (59 Fed. Reg. 33910, July 1, 1994). The Board's actions on April 25, 1994 became effective on October 1, 1994.

I. Summary.

The Personal Protective Equipment (PPE) standard, §§1910.132 through 1910.138, establishes the employer's obligation to provide personal protective equipment to employees. The standard does acknowledge work situations in a particular trade whereby employers may provide their own equipment.

The "worker-provided" clause in the PPE standard, §1910.132 (b), raised questions concerning when employers are required to pay for PPE. Federal OSHA has interpreted its general PPE standard, as well as specific standards, to require employers to provide and to pay for PPE required by the company for the worker to do his or her job safely and in compliance with OSHA standards.

Where equipment is very personal in nature and is usable by employees off the job, the matter of payment may be left to labor-management negotiations.

Examples of PPE that would not normally be used away from the worksite include, but are not limited to:

1. welding gloves,
2. wire mesh gloves,
3. respirators,
4. hard hats,
5. specialty glasses and goggles (e.g., designed for laser or ultraviolet radiation protection)
6. specialty foot protection (e.g., metatarsal shoes and linemen's shoes with built-in gaffs)
7. face shields, rubber gloves, blankets, cover-ups and hot sticks and other live-line tools used by power generation workers

Examples of PPE that are personal in nature and often used away from the worksite include:

1. non-specialty safety glasses,
2. safety shoes,
3. cold-weather outer wear of the type worn by construction workers. However, shoe or outer wear subject to contamination by

carcinogens or other toxic or hazardous substances which cannot be safely worn off-site must be paid for by the employer.

Failure of the employer to pay for PPE that is not personal and not used away from the job is a violation and shall be cited.

Theron J. Bell
Commissioner

Attachment: None.

Distribution: Commissioner of Labor and Industry
Deputy Commissioner
Directors and Supervisors
Enforcement Staff
Consultation and Training Services Staffs
DELTA Staff
OSHA Regional Administrator, Region III

**Standard Interpretation of §§1910.132(b) and 1926.95(b) concerning Employer
Obligation to Pay for Personal Protective Equipment**

As adopted by the
Safety and Health Codes Board

Date:

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective date: March 15, 1995

Personal Protective Equipment, General Industry, §§1910.132 through
1910.138

VR 425-02-151

When the regulations, as set forth in the standard on Personal Protective Equipment, General Industry, §§1910.132 through 1910.138, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

29 CFR

Assistant Secretary

Agency

October 18, 1994

VOSH Equivalent

VOSH Standard

Commissioner of Labor and Industry

Department

March 15, 1995